

**ORDINANCE NO. 09-91**

ORDINANCE GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW SHORT-TERM OCCUPANCY LIVING UNITS USED BY THE CLERGY ASSOCIATED WITH THE CHURCH PURSUANT TO HIALEAH CODE §98-181(2)g, AND GRANTING A VARIANCE PERMIT TO ALLOW 27 PARKING SPACES, WHERE AT LEAST 275 ARE REQUIRED, CONTRA TO HIALEAH CODE § 98-2189(4)g, ON PROPERTY ZONED CR (COMMERCIAL-RESIDENTIAL DISTRICT). **PROPERTY LOCATED AT 500 PALM AVENUE, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Planning and Zoning Board at its meeting of October 14, 2009, recommended approval of this ordinance; and

**WHEREAS**, the Petitioner proffered a declaration of restrictive covenants limiting the hours of worship, establishing a time limit for the occupancy of the units, restricting their occupancy only to members of the clergy and their immediate family who are associated with the church, and prohibiting permanent occupancy of the living units, to which the City accepts.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** The foregoing facts and recitations contained in the preamble to this ordinance is hereby adopted and incorporated as if fully set forth herein.

**Section 2:** The below-described property is hereby granted a conditional use permit (CUP) to allow short-term occupancy living units used by the clergy associated with the church on property zoned CR (Commercial-Residential District) and a variance permit is hereby granted to allow 27 parking spaces, where 275 are required, contra to Hialeah Code §98-289(4)g, which provides in pertinent part: "*Hotels, motels and*

*transient accommodations.* One parking space for each of the first 40 living units counted and one parking space for every two additional living units.” The property is located at 500 Palm Avenue, Hialeah, Miami-Dade County, Florida and legally described as follows:

LOTS 10, 11, AND 12, IN BLOCK 18, OF TOWN OF HIALEAH, ACORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, AT PAGE 77, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

AND

THE SOUTH ½ OF TRACT 18A, TOGETHER WITH THE EAST 100 FEET OF THE SOUTH ½ OF TRACT 18, IN BLOCK 18, OF REVISED PLAT OF BLOCK 18 OF THE TOWN OF HIALEAH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 33, AT PAGE 15, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

**Section 3: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 4: Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Section 5: Additional Penalties upon Violation of Conditions of Use.**

Any change of the terms and conditions of the use identified in this ordinance and as provided in the Declaration of Restrictive Covenants, if submitted, will cause a revocation of the Special Use Permit and of the city occupational license issued in connection herewith and the property shall revert to the zoning classification without the benefit of the special use.

**Section 6: Severability Clause.**

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 7: Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 10th day of November, 2009.

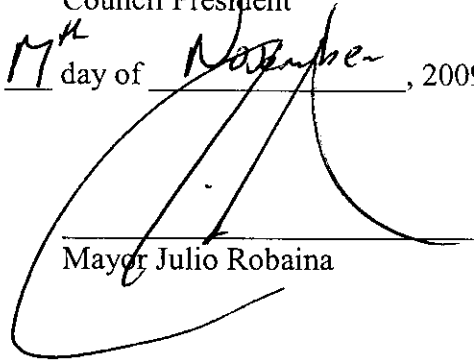
THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

Attest:

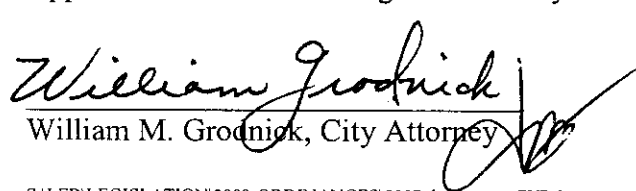
Approved on this 17<sup>th</sup> day of November, 2009.

  
\_\_\_\_\_  
Rafael E. Granado, City Clerk

  
\_\_\_\_\_  
Carlos Hernandez  
Council President

  
\_\_\_\_\_  
Mayor Julio Robaina

Approved as to form and legal sufficiency:

  
\_\_\_\_\_  
William M. Grodnick, City Attorney

S:\LEB\LEGISLATION\2009-ORDINANCES\500PalmAvenue-CUPshorttermoccupanyunits-parking-OCT14-11.doc

Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue, Garcia-Martinez, Gonzalez, Hernandez, and Yedra voting "Yes".



CFN 2009R0857088  
OR Bk 27099 Pgs 2787 - 2795; (9pgs)  
RECORDED 12/01/2009 15:22:18  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

This instrument was prepared by and after recordation return to :

**Name:** Ben Fernandez, Esq.  
**Address:** Bercow, Radell and Fernandez, P.A.  
200 S. Biscayne Boulevard, Suite 850  
Miami, FL 33131

(Space reserved for Clerk)

### **DECLARATION OF RESTRICTIVE COVENANTS**

This Declaration of Restrictive Covenants (the "Declaration") made this 9<sup>th</sup> day of November 2009, by Universal Church Corp. (hereinafter referred to as the "Owners"), are in favor of the **CITY OF HIALEAH, FLORIDA**, a municipality located within the State of Florida (hereinafter referred to as the "CITY").

### **WITNESSETH**

**WHEREAS**, the Owners sought and obtained a CONDITIONAL USE PERMIT pursuant to Ordinance No. 2009-91, for the property located at and being legally described as:

(See attached Exhibit "A").

**WHEREAS**, on Nov. 10, 2009 the City Commission approved the conditional use permit to allow the conversion of an existing structure to 12 living units for use by the clergy of the church;

**WHEREAS**, the Owners are desirous of making a voluntary binding commitment to assure that the Property shall be developed in accordance with the provisions of the Declaration herein.

1

**NOW THEREFORE,** the Owners voluntarily covenant and agree that the Property shall be subject to the following restrictions that are intended and shall be deemed to be a covenant running with the land and binding upon the Owners of the Property, and its heirs, successors and assigns as follows:

**Section 1.** The recitals and findings set forth in the preamble of this Declaration are hereby adopted by reference thereto and incorporated herein as if fully set forth in this Section.

**Section 2.** The Owners hereby makes the following voluntary declarations running with the land concerning the use of the Property:

- A. That Monday through Friday church services shall be limited to three times a day at 10 am, 4 pm and 7 pm. Saturday and Sunday services shall be no earlier than 9am and no later than 7 pm, except on holidays and special occasions.
- B. That the maximum length of stay at the residential facility by any visiting clergy shall not exceed two years.

The undersigned further agrees that these conditions, restrictions and limitations shall be deemed covenants running with the land, shall be recorded in the Public Records of Miami-Dade County, by the Owners within thirty (30) days of acceptance by the City and the Owners shall provide the City with a recorded copy within such time. The covenants shall remain in full force and effect and be binding upon the undersigned, their heirs and assignees until such time as the same may be released in writing by the

City of Hialeah City Commission after a public hearing which public hearing shall be applied for at the expense of the Owners or his/her designated representative.

**Section 3. Effective Date.** This Declaration is effective at the date of execution hereof. This instrument shall constitute a covenant running with the title to the Property shall be binding upon Owners, their successors and assigns. These restrictions shall be a limitation upon all present and future Owners of the Property and shall be for the public welfare.

**Section 4. Applicable Law & Venue.** Florida law will apply to interpretation of this instrument. Venue in any civil actions arising under this instrument shall be in Miami-Dade County, Florida.

**Section 5. Amendment and Modification.** This instrument may be modified, amended, or released as to any portion of the Property by a written instrument executed by the then Owners of the fee-simple title to the land to be affected by such modification, amendment or release, providing that same has been approved by the City of Hialeah City Commission after a public hearing which public hearing shall be applied for at the expense of the Owners. Upon approval of such modification amendment or release as specified herein, the Director of the City of Hialeah's Planning Department or her successor shall execute a written instrument in recordable form effectuating and acknowledging such modification, amendment or release. Such instruments shall be in a form acceptable to the City Attorney.

**Section 6. Inspection and Enforcement.** An enforcement action may be brought by the City by action in law or in equity against any party or person violating or attempting to violate any covenants of this Declaration, or provisions of the building and

zoning regulations, either to restrain violations or to recover damages. The prevailing party in the action or suit shall be entitled to recover costs and reasonable attorney's fees. This enforcement provision shall be in addition to any other remedies available under the law. This enforcement provision shall not apply against the City of Hialeah.

**Section 7. Severability.** Invalidation of any one of these covenants by judgment of Court shall not affect any of the other provisions of the Declaration, which shall remain in full effect.

**Section 8. Recording.** This Declaration shall be filed of record among the Public Records of Miami-Dade County, Florida, at the cost of the Owners.

**[Signature Page(s) to Follow]**

**ACKNOWLEDGMENT**

Signed, witnessed, executed and acknowledged on this 9<sup>th</sup> day of November, 2009.

**Witnesses:**

[Signature]  
Signature

ANA SILVA  
Print Name

[Signature]  
Signature

Verónica Angulo  
Print Name

Universal Church Corporation

By: Regina DaSilva  
Title: Treasurer

Address: 247 Walnut Street  
Newark, NJ 07105

STATE OF New York

COUNTY OF Bronx

The foregoing instrument was acknowledged before me by Regina DaSilva, the Treasurer of Universal Church Corporation. They are ☒ personally known to me or ☐ have produced Drivers Licence, as identification.

Witness my signature and official seal this 9<sup>th</sup> day of November 2009, in the County and State aforesaid.

[Signature]  
Notary Public State of New York

Maria T. Cuero  
Print Name

My Commission Expires: 3/3/2011

MARIA T. CUERO  
Notary Public, State of New York  
No. 01CU6088126  
Qualified in Bronx County  
Commission Expires March 3, 20 11



## **EXHIBIT A**

### **Legal Description**

**Lots 10, 11 and 12, in Block 18 of TOWN OF HIALEAH, according to the Plat thereof, as recorded in Plat Book 5, at Page 77, of the Public Records of Miami-Dade County, Florida. Together with the South ½ of Tract 18-A and the East 100.00 of the South ½ of Tract 18, of REVISED PLAT OF BLOCK 18 OF THE TOWN OF HIALEAH, according to the Plat thereof, as recorded in Plat book 33, at Page 15, of the Public Records of Miami-Dade County, Florida.**

**ORDINANCE NO. 09-91**

ORDINANCE GRANTING A  
CONDITIONAL USE PERMIT (CUP) TO  
ALLOW SHORT-TERM OCCUPANCY  
LIVING UNITS USED BY THE CLERGY  
ASSOCIATED WITH THE CHURCH  
PURSUANT TO HIALEAH CODE §98-  
181(2)g, AND GRANTING A VARIANCE  
PERMIT TO ALLOW 27 PARKING  
SPACES, WHERE AT LEAST 275 ARE  
REQUIRED, CONTRA TO HIALEAH  
CODE § 98-2189(4)g, ON PROPERTY  
ZONED CR (COMMERCIAL-  
RESIDENTIAL DISTRICT). **PROPERTY  
LOCATED AT 500 PALM AVENUE,  
HIALEAH, FLORIDA.** REPEALING  
ALL ORDINANCES OR PARTS OF  
ORDINANCES IN CONFLICT  
HEREWITH; PROVIDING PENALTIES  
FOR VIOLATION HEREOF; PROVIDING  
FOR A SEVERABILITY CLAUSE; AND  
PROVIDING FOR AN EFFECTIVE  
DATE.

**WHEREAS**, the Planning and Zoning Board at its meeting of October 14, 2009, recommended approval of this ordinance; and

**WHEREAS**, the Petitioner proffered a declaration of restrictive covenants limiting the hours of worship, establishing a time limit for the occupancy of the units, restricting their occupancy only to members of the clergy and their immediate family who are associated with the church, and prohibiting permanent occupancy of the living units, to which the City accepts.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** The foregoing facts and recitations contained in the preamble to this ordinance is hereby adopted and incorporated as if fully set forth herein.

**Section 2:** The below-described property is hereby granted a conditional use permit (CUP) to allow short-term occupancy living units used by the clergy associated with the church on property zoned CR (Commercial-Residential District) and a variance permit is hereby granted to allow 27 parking spaces, where 275 are required, contra to Hialeah Code §98-289(4)g, which provides in pertinent part: "*Hotels, motels and*

*transient accommodations*. One parking space for each of the first 40 living units counted and one parking space for every two additional living units." The property is located at 500 Palm Avenue, Hialeah, Miami-Dade County, Florida and legally described as follows:

LOTS 10, 11, AND 12, IN BLOCK 18, OF TOWN OF HIALEAH, ACORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, AT PAGE 77, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

AND

THE SOUTH ½ OF TRACT 18A, TOGETHER WITH THE EAST 100 FEET OF THE SOUTH ½ OF TRACT 18, IN BLOCK 18, OF REVISED PLAT OF BLOCK 18 OF THE TOWN OF HIALEAH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 33, AT PAGE 15, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

**Section 3: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 4: Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Section 5: Additional Penalties upon Violation of Conditions of Use.**

Any change of the terms and conditions of the use identified in this ordinance and as provided in the Declaration of Restrictive Covenants, if submitted, will cause a revocation of the Special Use Permit and of the city occupational license issued in connection herewith and the property shall revert to the zoning classification without the benefit of the special use.

ORDINANCE NO. 09-91  
Page 3

**Section 6: Severability Clause.**

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 7: Effective Date.**


This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 10th day of November, 2009.

THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

Attest:

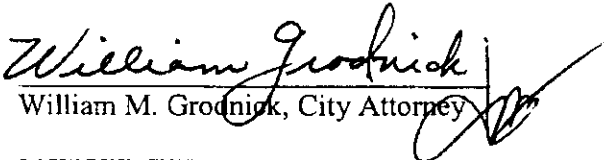
Approved on this 17th day of November, 2009.

  
Rafael E. Granado, City Clerk

  
Carlos Hernandez  
Council President

  
Mayor Julio Robaina

Approved as to form and legal sufficiency:

  
William M. Grodnick, City Attorney

S:\LEB\LEGISLATION\2009-ORDINANCES\500PalmAvenue-CUPshorttermoccupanyunits-parking-OCT14-11.doc

Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue, Garcia-Martinez, Gonzalez, Hernandez, and Yedra voting "Yes".